IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8368 of 2005

Between:

Kochaboyina Srihari, S/o.Balaiah,
R/o.45 SRT, Vidyanagar, Hyderabad.

..... PETITIONER

AND

1 Station House Officer, Bhadrachalam, Khammam District.
2 Station House Officer, II Town P.S. Khammam.
3 Superintendent of Police, Khammam.
4 State of A.P. rep. by its Principal Secretary, Deptt. of Home,
Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ, more particularly one in the nature of writ of habeas corpus, declaring that the action of the respondents in detaining in their custody (1) Renukuntla Rajaram, aged 28 years, R/o. Shayampet, Regonda mandal, Warangal district from 1st April 2005, and (2) Ooke Krishna, S/o. Pedda Lakshmaiah, aged about 32 years, R/o. Sayanipalli, Gundala Mandal, Khammam District and (3) Sheikh Khasim, aged about 32 years, R/o. Mamakannu, Gundala Mandal, Khammam District from the intervening night of 3rd and 4th April 2005, without leave of any court of law, is arbitrary and illegal and further directing the respondents to forthwith produce the said detenus before this Hon'ble Court and set them free.

For the Petitioner: Mr.K.Balagopal, Advocate.

For the Respondents: The Advocate General.

The Court made the following:

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THE HON'BLE MR. JUSTICE B. SUDESHAN REDDY

AND

THE HON'BLE MR. JUSTICE C.V. RAMULU

WRIT PETITION NO. 8368 OF 29005

ORDER: (per Sri B. Sudershan Reddy, J)

The writ petitioner invokes the extraordinary jurisdiction of this Court with a prayer to issue a writ in the nature of Habeas Corpus declaring the action of the respondents in detaining

(1) Renukuntla Rajaram, aged 28 years, R/o Shayampet, Regonda Mandal, Warangal District from 01-04-2005 and (2) Ooke Krishna, S/o Pedda Lakshmaiah, aged about 32 years, R/o Sayanipalli, Gundala Mandal, Khammam District and (3) Sheikh Khasim, aged about 32 years, R/o Mamakannu, Gundala Mandal, Khammam District from the intervening night of 3rd and 4th April, 2005 as arbitrary and illegal. The petitioner also seeks further directions to the respondents to forthwith produce the said detenus before this Court.

In the counter affidavit filed by the 2nd respondent, it is stated that the detenus are not wanted in any cases pending on the file of the II Town Police Station, Khammam. As such, there was no occasion to arrest them either on 01-04-2005,

3/4-05-2005 or on any other subsequent date. However, it is stated that on receipt of communication from the Office of the Advocate General, Hyderabad enquiries were made and it was found that alleged detenu No. 1 Renukuntla Rajaram was arrested by the Bhadrachalam Police, Khammam District on 15-04-2005 vide Crime No. 85 of 2005 under Sections 384 and 506 IPC and Section 21 (1) (a) of the Indian Arms Act and produced before the learned Additional Judicial First Class Magistrate, Kothagudem and upon such production, the learned Magistrate sent him to the judicial custody on the same day. The alleged detenu is presently lodged in the Central Prison, Warangal. It is further stated that so far as detenus 2 and 3 are concerned, no cases are pending investigation against them and they were not taken into custody on
3/4/-04-2005 as alleged.

In the reply affidavit filed by the petitioner, it is stated that detenus 2 and 3 were arrested by the Police of Manuguru Police Station within the jurisdiction of the 3rd respondent i.e. to say the Superintendent of Police, Khammam. On 21-04-2005, when the 2nd respondent filed an affidavit denying the arrest of detenus 2 and 3, the Police produced both of them before the Mandal Revenue Officer, Manuguru and got them bound over under Section 108 Cr.P.C. This was after 17 days of unlawful detention.

The Superintendent of Police though impleaded as the 3rd respondent did not file any counter affidavit. We must express our reservations about the manner in which the Assistant Sub-Inspector of Police, II Town Police Station, Khammam filed the counter affidavit in this writ petition in response to the allegations and averments made in the writ affidavit. The petitioner never contended that detenus 2 and 3 were arrested by the 2nd respondent. That if on enquiries, the 2nd respondent could find out that detenu No. 1 was arrested by Bhadrachalam Police, Khammam District on 15-04-2005, it is not known why the information of detention of detenus 2 and 3 could not be gathered by him. Obviously, the factum of detenus 2 and 3 being taken into custody is suppressed by the 2nd respondent. This conduct of the 2nd respondent is reprehensive.

The 2nd respondent is warned to be careful in future in filing affidavits in this Court. For the present, we do not propose to proceed further in the matter as against the 2nd respondent.

It s also just and necessary to direct the 3rd respondent herein i.e. the Superintendent of Police, Khammam to issue suitable instructions to all the Officers in the District to be careful in filing affidavits in this Court. The 3rd respondent shall also issue suitable instructions to the Officers to properly and carefully respond to the instructions of the Advocate General in the matter of filing affidavits in Habeas Corpus Writ Petitions.

Since all the detenus are already produced before the competent authority and all of them are already released and continue to be no more in detention, no further adjudication is required in this writ petition. Therefore, no further directions as such are required to be issued.

The Writ Petition is accordingly closed.

(B. Sudershan Reddy, J)

26-04-2005

(C.V. Ramulu, J)

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To,

1 The Station House Officer, Bhadrachalam, Khammam District.
2 The Station House Officer, II Town P.S. Khammam.
3 The Superintendent of Police, Khammam.
4 The Principal Secretary, Deptt. of Home, State of A.P. Secretariat, Hyderabad.

5. Two CCs to the Advocate General, High Court of Andhra Pradesh, Hydeabad (OUT).

6. Two CD copies.